

HOUSE BILL 397

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5lr2346

By: **Delegates Carter, Atterbeary, Dumais, McComas, Moon, Morales,
Pena–Melnyk, and Rosenberg**

Introduced and read first time: February 6, 2015

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Bail Data Analysis**

3 FOR the purpose of requiring the Maryland Statistical Analysis Center, in consultation
4 with the Administrative Office of the Courts, to develop a procedure and methodology
5 for the compilation and analysis of certain data and the preparation of a certain
6 report and recommendations; requiring the Maryland Statistical Analysis Center to
7 compile and analyze certain data and to submit a certain report on or before a certain
8 date; providing for the termination of this Act; and generally relating to bail data
9 analysis.

10 **Preamble**

11 WHEREAS, A 2014 study by Dr. James Austin showed an inverse relation between
12 the seriousness of a defendant's charge and the amount of bond set for that defendant:
13 defendants facing more serious charges received lower bond amounts than defendants with
14 less serious charges; and

15 WHEREAS, In 2014 the Governor established the Commission to Reform Maryland's
16 Pretrial System (2014 Governor's Commission); and

17 WHEREAS, The 2014 Governor's Commission recommended the elimination of
18 secured financial conditions of pretrial release, noting that the current bail system often
19 results in low-risk offenders being held because they cannot pay even a low bail, while
20 high-risk defendants with the resources to pay their bonds may leave jail unsupervised;
21 and

22 WHEREAS, In 2012 the Maryland General Assembly passed a law (Chapter 505 of
23 the Acts of 2012) establishing a Task Force to Study the Laws and Policies Relating to
24 Representation of Indigent Criminal Defendants by the Office of the Public Defender (2012
25 Legislative Task Force); and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, The 2012 Legislative Task Force, in its 2013 report, recommended that
2 Maryland “eliminate the option of monetary bonds”; and

3 WHEREAS, The Maryland State Bar Association requested that the Maryland Court
4 of Appeals appoint a committee to study the state of pretrial release decision making
5 throughout Maryland; and

6 WHEREAS, The report from the committee appointed by the Maryland Court of
7 Appeals recommended that monetary bonds should be used sparingly, limited to situations
8 when, according to Maryland Rule 4–216(c), “no other condition of release will reasonably
9 assure” appearance and community safety; and

10 WHEREAS, An Abell Foundation Report of 2001 similarly recommended that
11 monetary bonds be used sparingly; and

12 WHEREAS, In 1968, the American Bar Association (ABA) issued standards for the
13 pretrial release decision, ABA Standard 10–5.3, which include:

14 (1) financial conditions should be imposed “only when no other less
15 restrictive condition of release will reasonably ensure the defendant’s appearance in court”;

16 (2) the court “should not impose a financial condition that results in the
17 pretrial detention of the defendant solely due to an inability to pay”; and

18 (3) the court should not impose financial conditions “to prevent future
19 criminal conduct or to protect the safety of the community of any person”; now, therefore,

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
21 That:

22 (a) On or before December 31, 2015, the Maryland Statistical Analysis Center
23 within the Governor’s Office of Crime Control and Prevention, in consultation with the
24 Administrative Office of the Courts, shall develop a procedure and methodology for:

25 (1) the compilation of data required to be collected under subsection (b) of
26 this section;

27 (2) analysis of the data; and

28 (3) preparation of a report and recommendations based on the data.

29 (b) The Maryland Statistical Analysis Center shall compile the following
30 information for each defendant appearing at an initial appearance or bail review for the
31 period of June 1, 2015, through November 30, 2015:

- 1 (1) the defendant's pending criminal cases, active or prior failures to
2 appear, previous misdemeanor and felony convictions, and current probation and parole
3 status;
- 4 (2) the defendant's primary offense;
- 5 (3) the defendant's initial appearance outcome, such as released on
6 recognizance, unsecured, released with bond, or held without bond;
- 7 (4) if the defendant was granted bond, the nature of the bond, such as cash,
8 property, or surety bond;
- 9 (5) if the defendant is held in lieu of posting bond, the bond amount;
- 10 (6) if and when bond was posted;
- 11 (7) whether bond was posted by the defendant, a surety, or a surety
12 insurer;
- 13 (8) whether the defendant failed to appear or was rearrested during the
14 pretrial phase;
- 15 (9) the defendant's socioeconomic level, as related to the federal poverty
16 guidelines;
- 17 (10) the defendant's race;
- 18 (11) the defendant's national origin;
- 19 (12) the defendant's spoken language, if other than English;
- 20 (13) whether an interpreter was provided for the defendant during the
21 proceedings;
- 22 (14) the defendant's age;
- 23 (15) the defendant's gender;
- 24 (16) the defendant's residence; and
- 25 (17) whether the defendant was homeless.
- 26 (c) The Maryland Statistical Analysis Center shall analyze the data collected
27 under subsection (b) of this section, in accordance with the methodology developed under
28 subsection (a) of this section.

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1 (d) On or before December 31, 2015, the Maryland Statistical Analysis Center
2 shall submit a report of its findings and recommendations to the Governor, and, in
3 accordance with § 2-1246 of the State Government Article, the General Assembly.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
5 1, 2015. It shall remain effective for a period of 1 year and 1 month and, at the end of June
6 30, 2016, with no further action required by the General Assembly, this Act shall be
7 abrogated and of no further force and effect.